

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIV 16-0740 JB/KBM
CR 08-1669 JB

RICHARD McKENZIE,

Defendant.

ORDER GRANTING MOTION FOR BECKLES STAY

THIS MATTER is before the Court on the United States' opposed Motion for Stay of Proceedings Pending the Supreme Court's Decision in *United States v. Beckles*, CV Doc. 8 & CR Doc. 224, filed October 31, 2016. In response to the Court's Order of December 30, 2016, counsel for Defendant McKenzie now indicates that a stay of this action pending the Supreme Court's ruling in *Beckles v. United States*, (S. Ct. No. 15-8544) "does not appear to be an issue in terms of prejudicing Mr. McKenzie" because Defendant's expected release date is July 13, 2027. *Doc. 12*.

Because a stay will not effectively operate as a dismissal of Defendant McKenzie's claim, this Court has discretion to grant a *Beckles* stay. See *Miller*, slip op. at 6 (writ of mandamus to vacate *Beckles* stay found necessary because "staying resolution of his motion until the Supreme Court resolves *Beckles* will irreparably damage Miller by resulting in his unnecessary confinement."). This Court believes that the *Beckles* decision

may provide significant guidance in addressing issues raised in this matter. Thus, the Court finds the motion to be well taken and it will be **granted**.

IT IS SO ORDERED.



Karen B. Molzen
UNITED STATES CHIEF MAGISTRATE JUDGE